

AUG 16 2017

## UNITED STATES DISTRICT COURT

David J. Bradley, Clerk of Court

for the

Southern District of Texas

Houston Division

Mark Anthony Felder

Case No.

17 cv 2511  
(to be filled in by the Clerk's Office)

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Dupre Logistics, LLC

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

## COMPLAINT FOR EMPLOYMENT DISCRIMINATION

## I. The Parties to This Complaint

## A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Mark A. Felder
Street Address	7 Stonecrest Court Apt D
City and County	Hobbs, Lea County
State and Zip Code	New Mexico 88240
Telephone Number	(512) 689-0201
E-mail Address	felderm29@icloud.com

## B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

## Defendant No. 1

Name Dupre Logistics, LLC

Job or Title *(if known)*

Street Address

201 Energy Parkway Suite 500

City and County

Lafayette, Chambers County

State and Zip Code

Louisiana, 70508

Telephone Number

(800) 356-3659

E-mail Address *(if known)*

## Defendant No. 2

Name

Job or Title *(if known)*

Street Address

City and County

State and Zip Code

Telephone Number

E-mail Address *(if known)*

## Defendant No. 3

Name

Job or Title *(if known)*

Street Address

City and County

State and Zip Code

Telephone Number

E-mail Address *(if known)*

## Defendant No. 4

Name

Job or Title *(if known)*

Street Address

City and County

State and Zip Code

Telephone Number

E-mail Address *(if known)*

**C. Place of Employment**

The address at which I sought employment or was employed by the defendant(s) is

Name	Dupre Logistics, LLC
Street Address	15535 Market Street
City and County	Channelview, Harris County
State and Zip Code	Texas 77530
Telephone Number	(281) 452-4186

**II. Basis for Jurisdiction**

This action is brought for discrimination in employment pursuant to *(check all that apply)*:



Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

*(Note: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)*



Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 to 634.

*(Note: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission.)*



Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 to 12117.

*(Note: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)*



Other federal law *(specify the federal law)*:



Relevant state law *(specify, if known)*:



Relevant city or county law *(specify, if known)*:

**III. Statement of Claim**

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. The discriminatory conduct of which I complain in this action includes *(check all that apply)*:

- ☐ Failure to hire me.
- ☒ Termination of my employment.
- ☐ Failure to promote me.
- ☐ Failure to accommodate my disability.
- ☒ Unequal terms and conditions of my employment.
- ☒ Retaliation.
- ☐ Other acts *(specify)*: \_\_\_\_\_

*(Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.)*

B. It is my best recollection that the alleged discriminatory acts occurred on date(s)  
October 2015, February 2016, and July 2016

C. I believe that defendant(s) *(check one)*:

- ☐ is/are still committing these acts against me.
- ☒ is/are not still committing these acts against me.

D. Defendant(s) discriminated against me based on my *(check all that apply and explain)*:

- ☒ race Disciplinary Actions/Termination
- ☐ color \_\_\_\_\_
- ☒ gender/sex Reporting Gender Harrassment
- ☐ religion \_\_\_\_\_
- ☐ national origin \_\_\_\_\_
- ☐ age *(year of birth)* \_\_\_\_\_ *(only when asserting a claim of age discrimination.)*
- ☐ disability or perceived disability *(specify disability)* \_\_\_\_\_

E. The facts of my case are as follows. Attach additional pages if needed.

1. Plaintiff was suspended twice between October 2015 and July 2015 and not progressively disciplined.
2. Plaintiff was discharged from employment on or about July 25, 2016. Plaintiff was advised by management, reason for termination was due to being suspended twice. Defendant reported a different statement for termination of plaintiff to the Texas Workforce Commission, stating plaintiff was terminated due to not protecting driving record and maintaining a valid drivers licenses. Exhibit A.
3. Prior to termination, plaintiff provided a statement to management regarding harassment in workplace.

*(Note: As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, or the charge filed with the relevant state or city human rights division.)*

#### IV. Exhaustion of Federal Administrative Remedies

- A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding the defendant's alleged discriminatory conduct on *(date)*

August 15, 2016

- B. The Equal Employment Opportunity Commission *(check one)*:

☐

has not issued a Notice of Right to Sue letter.

☒

issued a Notice of Right to Sue letter, which I received on *(date)* 05/18/2017 .

*(Note: Attach a copy of the Notice of Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.)*

- C. Only litigants alleging age discrimination must answer this question.

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding the defendant's alleged discriminatory conduct *(check one)*:

☐

60 days or more have elapsed.

☐

less than 60 days have elapsed.

#### V. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

**III.**

**E. Additional facts of my case are as follows.**

3. Plaintiff provided a statement to management on behalf of a female employee who was being harassed by a male employee.
4. The male employee who was reported for harassment was not disciplined as harshly as plaintiff was disciplined, for an infraction which plaintiff should have received a verbal or write-up, not a suspension.
5. By doing the acts described above in Paragraph 1, Defendant caused and/ or permitted the violation of Plaintiff's right to Due Process guaranteed by the Fourteenth Amendment, thereby entitling Plaintiff to recover damages pursuant to 42 U.S. C § 1983.
6. The defendant took actions of changing statement to Texas Workforce Commission's conduct and actions of described in Paragraph 2, caused plaintiff a loss of wages, health benefits and emotional distress due to termination without concise to believe retaliation was one of the cause factors for termination of employment, due to being a witness in a gender discrimination investigation as described in Paragraph 3.

The plaintiff requests that the defendant be ordered:

A. to award plaintiff compensatory and punitive damages, including general and special damages, according to proof;

B. to award plaintiff any further relief which the Court may deem appropriate.

## VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

### A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 08/10/2017

Signature of Plaintiff



Printed Name of Plaintiff

Mark A. Felder

### B. For Attorneys

Date of signing: \_\_\_\_\_

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Street Address

State and Zip Code

Telephone Number

E-mail Address

EEOC Form 161 (11/16)

## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## DISMISSAL AND NOTICE OF RIGHTS

To: **Mark Felder**  
**7 STONECREST COURT #D**  
**HOBBS NM 88240**

From: **Houston District Office**  
**Mickey Leland Building**  
**1919 Smith Street, 7th Floor**  
**Houston, TX 77002**



On behalf of person(s) aggrieved whose identity is  
**CONFIDENTIAL (29 CFR §1601.7(a))**

EEOC Charge No.

EEOC Representative

Telephone No.

**451-2016-02678**

**Phyllis Ellis,**  
**Investigator**

**(713) 651-4930**

## THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

## - NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred **more than 2 years (3 years)** before you file suit may not be collectible.

On behalf of the Commission



**Rayford O. Irvin,**  
**District Director**

**MAY 12 2017**

(Date Mailed)

Enclosures(s)

cc: **Jude Reiners, HR Manager**  
**Performance & Training**  
**Recruiting Department**  
**DUPRE LOGISTICS LLC**  
**201 ENERGY PARKWAY # 500**  
**LAFAYETTE LA 70508**

**Lowell Kelg, Executive Director**  
**TWC/CIVIL RIGHTS DIVISION**  
**101 E 15TH STREET # 144T**  
**AUSTIN TX 78778**



Enclosure with EEOC  
Form 161 (11/16)

**INFORMATION RELATED TO FILING SUIT  
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law.  
If you also plan to sue claiming violations of State law, please be aware that time limits and other  
provisions of State law may be shorter or more limited than those described below.)*

**PRIVATE SUIT RIGHTS — Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA),  
the Genetic Information Nondiscrimination Act (GINA), or the Age  
Discrimination in Employment Act (ADEA):**

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge within 90 days of the date you receive this Notice. Therefore, you should keep a record of this date. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed within 90 days of the date this Notice was mailed to you (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Courts often require that a copy of your charge must be attached to the complaint you file in court. If so, you should remove your birth date from the charge. Some courts will not accept your complaint where the charge includes a date of birth. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

**PRIVATE SUIT RIGHTS — Equal Pay Act (EPA):**

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred more than 2 years (3 years) before you file suit may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit before 7/1/10 — not 12/1/10 — in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

**ATTORNEY REPRESENTATION — Title VII, the ADA or GINA:**

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

**ATTORNEY REFERRAL AND EEOC ASSISTANCE — All Statutes:**

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, please make your review request within 6 months of this Notice. (Before filing suit, any request should be made within the next 90 days.)

**IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.**

EEOC Form 5 (11/08)

**CHARGE OF DISCRIMINATION**

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):

☐ FEPA☒ EEOC

451-2016-02678

**TEXAS WORKFORCE COMMISSION CIVIL RIGHTS DIVISION**

and EEOC

State or local Agency, if any

Name (Indicate Mr., Ms., Mrs.)

Mr. Mark Felder

Home Phone (Incl. Area Code)

(512) 398-5953

Date of Birth

03-01-1968

Street Address

City, State and ZIP Code

2413 Silvercloud Dr., Lockhart, TX 78644

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

DUPRE LOGISTICS, LLC

No. Employees, Members

201 - 500

Phone No. (Include Area Code)

(832) 323-5179

Street Address

City, State and ZIP Code

15531 Market Street, Channelview, TX 77530

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

☐ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ NATIONAL ORIGIN  
☒ RETALIATION ☐ AGE ☐ DISABILITY ☐ GENETIC INFORMATION  
☐ OTHER (Specify)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

10/20/2015

7/25/2016

☐ CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

I was suspended twice between October 2015 and July 2016 and not progressively disciplined. I was discharged on 7/25/2016 for being on suspension twice.

Prior to the termination, I provided a statement to management on behalf of a female employee who was being harassed by a male employee.

The male employee has not been disciplined as harshly as I was disciplined, for an infraction which I should have received a verbal or write-up, not a suspension.

I feel I was retaliated against for being a witness in a gender discrimination investigation, in violation of Title VII of the Civil Rights Act of 1964, as amended.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE  
(month, day, year)

Aug 15, 2016

Date

Charging Party Signature

1212 Case 3:17-cv-00511 Document 1 Filed in TXSD on 08/16/17 Page 11 of 11  
UI Support & Customer Service  
TEXAS WORKFORCE COMMISSION  
PO BOX 149346  
AUSTIN TX 78714-9346

Exhibit A

320421710012120101

**DETERMINATION ON PAYMENT OF UNEMPLOYMENT BENEFITS**  
**Date Mailed: August 5, 2016**

MARK FELDER  
2413 SILVERCLOUD DR  
LOCKHART TX 78644-4544



Social Security Number: XXX-XX-0318  
Employer: DUPRE TRANSPORT LLC  
As:  
Employer Account No: 08-821781-0  
All dates are shown in  
month-day-year order.

**Decision**

**Issue:** Separation from Work-Protection of Driving Record/Driver's License

**Decision:** We cannot pay you benefits.

**Reason for Decision:** Our investigation found your employer fired you from your last work because you did not protect your driving record, including maintaining a valid driver's license. Your job required a valid driver's license and a good driving record.

**Beginning Date of No Payment Period (Disqualification):** 07-24-16

**What you can do:** You can request that we end this disqualification if you return to employment as defined in the Texas Unemployment Compensation Act after the beginning date above and:

(a) Work at least 30 hours a week for six weeks, OR earn wages equal to six times your weekly benefit amount; AND

(b) provide TWC with proof of your work or earnings and request that we end the disqualification.

You can fulfill the work or earnings requirements while you continue to work part time.

However, if you are no longer working, you must have a qualifying separation from your last job.

**Law Reference:** Section 207.044 and Subchapter D, Section 201 of the Texas Unemployment Compensation Act.

**Determination of Potential Chargeback for the Employer**

There will be no charge to your former employer's account.

**If You Disagree with this Decision**

If you disagree with this decision, you may appeal. Submit your appeal online, by fax, or by mailing on or before

08-19-16. TWC will use the postmark date or the date we receive the fax or online form to determine whether your appeal is timely. If you appeal by fax, you should keep your fax confirmation as proof of transmission. Please include a copy of this notice with appeals correspondence. You must appeal each determination separately.

Mail the appeal to:

Appeal Tribunal

Texas Workforce Commission

101 E. 15th Street

Austin, TX 78778-0002

Or fax to (512) 475-1135

You may appeal by  
submitting TWC's online  
appeal form. Go to  
[www.texasworkforce.org](http://www.texasworkforce.org)

Please See Reverse For How To File An Appeal.

Case No.: 5  
Claim ID.: 07-24-16  
Claim Date: 07-24-16  
HEARING IMPAIRED CLIENTS  
CALL 711 for RELAY TEXAS